



## **INTERNATIONAL TRADE COMMISSION**

**Inv. No. 337-TA-844**

### **CERTAIN DRILL BITS AND PRODUCTS CONTAINING THE SAME**

#### **Institution of investigation pursuant to 19 U.S.C. § 1337**

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 25, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Boart Longyear Company of South Jordan, Utah and Longyear TM, Inc. of South Jordan, Utah. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain drill bits and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,828,090 (“the ’090 patent”); U.S. Patent No. 7,874,384 (“the ’384 patent”); and U.S. Patent No. 8,051,929 (“the ’929 patent”). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining

access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205-1802.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2012).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 25, 2012, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain drill bits and products containing the same that infringe one or more of claims 1-9 and 12-20 of the '090 patent; claims 8-10 and 12-16 of the '384 patent; and claims 1, 2, 6-11, 13-16, 19, and 20 of the '929 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Boart Longyear Company

10808 S. River Front Parkway, Suite 600

South Jordan, UT 84095

Longyear TM, Inc.

10808 S. River Front Parkway, Suite 600

South Jordan, UT 84095;

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Boyles Bros Diamantina S.A.

Av. Santa Ana 180-186 Ate

Lima, Peru

Christensen Chile S.A.

Lo Campino 432

Quilicura, Santiago

Chile

Diamantina Christensen Trading Inc.

Edificio AFRA

AV. Samuel Lewis y Calle 54

Panama

Intermountain Drilling Supply Corp.

3412 West 2400 South

West Valley City, UT 84111; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Commission notes that issues regarding whether the importation requirement of section 337 is met may be present here. In instituting this investigation, the Commission has not made any determination as to whether Complainants have satisfied this requirement.

Accordingly, the presiding administrative law judge may wish to consider this issue at an early date. Any such decision should be issued in the form of an initial determination (ID) Rule 210.42(c), 19 C.F.R. § 210.42(c). The ID will become the Commission's final determination 45 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44 and 210.45, 19 C.F.R. §§210.43, 210.44, and 210.45.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d)-(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations

of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

James R. Holbein

Secretary to the Commission

Issued: May 29, 2012

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